REMARKS

The Office Action mailed August 19, 2003 has been reviewed and carefully considered. Claims 12-14 have been added. Claims 1-14 are pending in the application. Of these, claims 1, 4 and 8 are the independent claims. Claims 1-2 and 4-11 have been amended. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

Item 2 of the Office Action states that the title of the invention is non-descriptive. The title has been amended for clarity, and is believed to be descriptive as amended.

Item 3 of the Office Action requests that line numbers of the claims be reformatted. Due to practical considerations, the applicant cannot meet this request. The applicant notes that item 3 makes no requirement, nor does it appear to the applicant that authority for such a requirement exists.

Item 4 of the Office Action objects to Figures 1 and 2 for lack of a "PRIOR ART" legend, and this amendment has now been made as shown in the attached new formal drawings for Figures 1 and 2.

Item 6 of the Office Action states that, due to a misspelling of the inventor's name, the declaration is defective. Enclosed is a copy of a declaration newly-executed by the inventor wherein the inventor's name is spelled correctly.

Item 7 of the Office Action objects to the Abstract for use of improper language and for excessive length. The Abstract has now been appropriately amended.

Claims 1-11 stand rejected under 35 U.S.C. 112, second paragraph as indefinite due to lack of antecedent basis in the claims. The applicant does not agree with

all of the items cited in item 8 of the Office Action. For example, the alleged ambiguity for claim 1 does not exist. Nevertheless, the claims have been revised for clarity. Claims 1-11 have now been amended in a manner believed to overcome the basis for the rejections.

Claims 1-11 stand rejected under 35 U.S.C. 103(a) as unpatentable over the alleged admissions of the applicant (AAA) in view of U.S. Patent No. 6,029,175 to Chow et al. ("Chow").

Claim 1 as amended recites "transmitting a new program data and a first control signal to said first predetermined node coupled to the network management system (NMS) disposed in the network separately from the nodes and configured to manage the changing of the programs of the nodes; . . . causing the network management system (NMS) to transmit to said first predetermined node a data-transmitting signal for transmitting the stored new program data to said second predetermined node."

Item 13 of the Office Action acknowledges that the AAA does not disclose or suggest the above limitation of claim 1 as amended.

Item 14 discusses the disclosure of Chow, but is silent with regard to the claimed structure of a "data-transmitting signal" issued to a given node from the "network management system" "disposed in the network separately from the nodes." The motivation cited in item 15 of the Office Action does not show or suggest that this claimed structure would have been present in the proposed AAA/Chow combination.

Chow, at most, teaches a second computer or node forwarding updated data to a third computer or node. Since the control signal of AAA (FIGs. 1 and 2 of the present invention) accompanies update data from the NMS 10 to the particular node to

indicate to the particular node that that particular node's data is to be updated with the update data (specification, page 3, lines 8-11), the applicant fails to see how this teaching of Chow suggests modifying NMS 10 of FIGs. 1 or 2 of the present application to issue to a given node a "data-transmitting signal for transmitting the stored new program data." Rather than attempting to find this novel structure in the prior art, the Examiner is using impermissible hindsight based on the disclosure of the instant invention to dismiss the invention as "obvious." Chow, alone or in combination with AAA, fails to disclose or suggest a "data-transmitting signal" which is explicitly required by the language of claim 1.

In particular neither AAA nor Chow, alone or in combination, disclose or suggest ""transmitting a new program data and a first control signal to said first predetermined node coupled to the network management system (NMS) disposed in the network separately from the nodes and configured to manage the changing of the programs of the nodes; . . . causing the network management system(NMS) to transmit to said first predetermined node a data-transmitting signal for transmitting the stored new program data to said second predetermined node" which is explicitly required by the language of claim 1. For at least this reason, claim 1 is not rendered obvious by AAA/Chow.

As to claim 4, it similarly to claim 1 recites "transmitting a new program data and a first control signal to the first node, said first node being coupled to a network management system (NMS) located in the network remotely from the plural nodes . . . transmitting, by said NMS and to said first node, a command signal to transmit the stored new program data to the second node and transmitting a second control signal to said

second node" and is likewise deemed not rendered obvious by AAA/Chow for at least the same reason.

Claim 8, similarly to claim 1, recites "transmitting a new program data and a first control signal to the one of the plural nodes coupled to said network management system (NMS) which is disposed in the network separately from the plural nodes . . . transmitting, by said NMS to said one node, a command signal to transmit the stored new program data to another of the plural nodes and transmitting a second control signal to the another node" and also is deemed to be patentable over AAA/Chow for at least the same reason.

Claims 1-11 stand rejected under 35 U.S.C. 103(a) as unpatentable over Japanese Patent JP 07-295943 to Oda in view of AAA.

Oda relates to passing an updating program in a chain A, B, C of processors. Processor A as the master passes the updating program to processor B which serves as the slave. Then, processor B, acting as the master, passes the updating program to processor C which serves as the slave. See Abstract, Constitution ("The slave equipment which performs reception becomes the master equipment"); [0021] "oneself becomes a master device"). Accordingly, Oda fails to disclose or suggest a "data-transmitting signal" from the network management system, that system being separate from the nodes.

Item 22 of the Office Action suggests that AAA discloses "a control signal for controlling the update operation" and "control signals for indication of transmission of data to the next predetermined node," but modifying Oda based on AAA fairly suggests no more than that the current Oda master transmits a control signal for controlling the updating and a control signal for indication of transmission of data to the

next predetermined node. Oda/AAA still fails to disclose or suggest a "data-transmitting signal" from the network management system, that system being separate from the nodes.

In particular, Oda/AAA fails to disclose or suggest "transmitting a new program data and a first control signal to said first predetermined node coupled to the network management system (NMS) disposed in the network separately from the nodes and configured to manage the changing of the programs of the nodes . . . causing the network management system (NMS) to transmit to said first predetermined node a data-transmitting signal for transmitting the stored new program data to said second predetermined node, and transmitting, by the network management system (NMS), a second control signal to said second predetermined node; and (d) in response to the data-transmitting signal, causing said first predetermined node to transmit the stored new program data thereof to said second predetermined node." AAA accordingly cannot make up for this deficiency in Oda. Claims 1, 4 and 8 are each deemed non-obvious over Oda/AAA for at least this reason.

The other rejected claims each depend from one of the base claims and are deemed non-obvious for at least the same reasons as their respective base claims.

Claims 12-14 have been added to more particularly point out what the applicant regards as the invention. Support for claims 12-13 is found in original claim 1, and support for claim 14 is found in original claim 7.

In view of the foregoing amendments and remarks, it is believed that this application is now in condition for allowance. The Examiner is invited to contact the undersigned in the event of any perceived outstanding issues so that passage of the case to issue can be effected without the need for a further Office Action.

In the event that any additional fee is required to continue the prosecution of this Application as requested, please charge such fee to Deposit Account No. 502-470.

Respectfully submitted,

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